

LYONS ET AL. - 10/007,692
Client/Matter: 020826-0280456

REMARKS

Reconsideration and allowance are respectfully requested in view of the following remarks. No claims are added or amended. The presently pending claims are 1-4, 6-14, and 18-24.

Interview

Applicants appreciate the courtesies extended by Examiner Peterson and Examiner Hamilton to Applicants' undersigned representative during a personal interview conducted at the U.S. Patent Office on May 13, 2004. During the interview, the outstanding Office Action was discussed as well as the prior art cited therein and the subject application's pending claims.

During the interview, the Examiners also suggested some possible claim amendments to "move things in the right direction." In particular, when discussing the benefits of the pressure cylinder of the subject application, it was noted that the pressure cylinder was a single device that performed the function of multiple elements in Kirsten. The Examiners suggested amending the claims to recite the force applying device as an integral element. However, this suggestion is moot since the pending claims already include that the force applying device is a pressure cylinder that both moves the adjustable post between cutting positions and locks the adjustable post from moving from the desired position during cutting. Additionally, the Examiners suggested reciting the second stop of claim 13 as being integral with the base in light of the possibility of the bolt 23 of Kirsten being construed as a second stop. However, this suggestion is also moot since, as discussed below with respect to claim 13, bolt 23 cannot be considered to satisfy both the second stop and the structure that keeps the an adjustable post from moving during cutting. Such an interpretation of Kirsten would improperly attempt to use one feature of Kirsten to satisfy two limitations in a claim.

Prior Art Rejections

Claims 1 and 18

In paragraph 3 of the Office Action, claims 1-4, 6-12, 18-21, and 23 are rejected under 35 U.S.C. §103(a) over the combination of Kirsten in view of Wallis. The rejection is respectfully traversed and reconsideration is respectfully requested.

Claims 1 and 18 recite "wherein said first force applying device is a pressure cylinder that is structured to move said adjustable post between said first and second cutting positions

LYONS ET AL.— 10/007,692
Client/Matter: 020826-0280456

and structured to lock said adjustable post from moving from said desired position during cutting.”

The outstanding Office Action states that the screw 15 and the nut 22 of Kirsten are a first force applying mechanism with the screw 15 being a force applying element and the nut 22 being the force applying device. The Office Action states that “the nuts 22 do move the screws 15 and are construed as force applying means.” However, as discussed during the interview, the nuts 22 do *not* move the screws.

As set forth in Kirsten on page 2, lines 21-47, the knife of Kirsten operates as follows:

1. nuts 22 on screws 15 are loosened;
2. nuts 30 on bolts 23 are loosened;
3. screws 15 are projected or retracted to place the knife in proper position;
4. nuts 22 are tightened to secure screws 15 in place; and
5. nuts 30 are tightened to secure bolts 23 in place.

Kirsten states, “the jam nuts 22 on the screws 15 are loosened to permit the screws to be projected or retracted” (page 2, lines 24-25). Thus, the nuts 22 of Kirsten do *not* apply a force to move the screws 15 and cannot be construed as a force applying device as contended in the Office Action.

The Office Action also states that it would have been obvious to provide a pressure cylinder to Kirsten as taught by Wallis “in order to automate the force applying mechanism in Kirsten.” The Office Action further states that pressure cylinders are well known and provide for “automated systems which no longer require an operator to turn the screw 15 with a wrench.”

However, even if it is assumed that the turning of the screw 15 can move the knife 12 and can be automated, any automation of Kirsten would only involve the automation of the turning of the screw 15. Such an automation would not involve a pressure cylinder, but would involve instead some sort of apparatus to generate the turning of the screw so as to no longer require the operator to turn the screw. There is no disclosure or suggestion in the prior art to wholly replace the screw and bolt mechanism of Kirsten with a pressure cylinder.

Additionally, as set forth above, the screws 15 of Kirsten merely move the knife in one direction whereas the claims recite that the pressure cylinder not only moves the adjustable post “between said first and second cutting positions” but that the pressure cylinder is also “structured to lock said adjustable post from moving from said desired cutting position during cutting.” Thus, the screws 15 merely perform one of the tasks performed by

LYONS ET AL. — 10/007,692
Client/Matter: 020826-0280456

the claimed pressure cylinder. Thus, replacement of the screws 15 with a pressure cylinder, even if assumed proper, would not satisfy the limitations of claims 1 and 18.

If one was to automate the system in Kirsten to both move the knife and lock the knife as recited in the claims, such an automotive system would include automation of not only screws 15, but also the device to turn screws 15, the nuts 22 for screws 15, the device to tighten nuts 22, the bolts 23, the nuts 30 for bolts 23, and the device to tighten the nuts 30. However there is no disclosure or suggestion in the prior art to replace all of those elements of Kirsten with a pressure cylinder as suggested in the Office Action.

Claims 1 and 18 recite that the first force applying device is a pressure cylinder that is structured to both move and lock the adjustable post. Thus, the pressure cylinder recited in claims 1 and 18 provides a simpler and more efficient device for moving and locking an adjustable post.

Also, as set forth above, claims 1 and 18 recite that the pressure cylinder is structured to lock the adjustable post "from moving from the desired position during cutting." The Office Action states that figure 2 of Wallis shows that the piston is in a locked upper position. However, Wallis does not disclose a cylinder that is in a locked position "during cutting." Wallis clearly states that the pistons 27, 40 move in unison during movement of the upper die (col. 3, lines 3-6). Thus, Wallis does not disclose or suggest a pressure cylinder that locks an adjustable post during cutting, as recited in the claims. At best, Wallis merely discloses a pressure cylinder that is locked before a cutting operation.

Since there is no disclosure or motivation in the prior art to provide a pressure cylinder to Kirsten that moves the adjustable post between said first and second cutting positions and locks the adjustable post from moving from the desired position during cutting, as claimed, withdrawal of the rejection is respectfully requested.

Claim 7

The above arguments directed to claims 1 and 18 are equally applicable to claim 7.

Additionally, claim 7 recites "a second pressure cylinder positioned adjacent to said second side of said adjustable post to apply pressure on said second side of said adjustable post."

The Office Action considers the application of a second pressure cylinder at a second side of the knife 12 of Kirsten to be merely a duplication of parts. However, Applicants

LYONS ET AL. — 10/007,692
Client/Matter: 020826-0280456

reiterate that there must exist a first part for a duplication to exist. Since, as stated above, there is no motivation to provide a first cylinder to Kirsten, there is no motivation to apply a second cylinder.

Even assuming *arguendo* that a first pressure cylinder can be applied to a first side of the knife 12 of Kirsten, a duplication of the first pressure cylinder would be the application of a second pressure cylinder *on the same side* as the first pressure cylinder. The application of a second pressure cylinder on the opposite side of the first cylinder that performs a different function than the first cylinder cannot be considered a duplication of the first cylinder.

Additionally, since Kirsten does not have an apparatus on the left side of the knife 12 (as seen in Fig. 3), it would be improper to merely duplicate a device from the right side and install it on the left side. For example, installing the screws 15 on the left side as well as the right side of knife 12 would be improper since the screws on the left side would perform a different function than those on the right. Also, having screws on the left would interfere with the use of the knife.

The Office Action also alleges that adding a pressure cylinder to the other side of the adjustable post would provide back-up systems for the original pressure cylinder should it fail. However, the claimed second pressure cylinder is not simply a "back-up system" as alleged by the Office Action. Rather, the claimed first force applying device includes first and second pressure cylinders with the first pressure cylinder applying pressure on the first side of the adjustable post, and the second pressure cylinder applying pressure on the second side of the adjustable post. Having a pressure cylinder on both sides at claimed permits pressure cylinders on both sides of the adjustable post to be activated simultaneously, which can permit, for example, a lower operating pressure for each of the pressure cylinders compared to the operating pressure needed if only one pressure cylinder on one side is employed.

The Office Action also asserts that the pressure cylinder is capable of being added to the structure without interfering with any of the other mechanisms of the system. However, this assertion is not supported by any objective evidence, including not being supported by any disclosure in any of the patents relied upon. Therefore, the reliance on this conjecture is improper.

Accordingly, withdrawal of the rejection is respectfully requested.

LYONS ET AL. -- 10/007,692
Client/Matter: 020826-0280456

Claim 13

In paragraph 4 of the Office Action, claims 13 and 24 are rejected under 35 U.S.C. §103(a) over the combination of Kirsten in view of Mori. This rejection is respectfully traversed.

As stated above, since Kirsten fails to disclose a force applying mechanism as claimed, the rejection is improper.

Additionally, the reliance upon Mori for providing a second stop is improper. Mori discloses stops 15 for a *moving* cutting blade 20. At best, the stops of Mori would be provided only to the *vertical* knife 12' of Kirsten since the vertical knife 12' is the *moving* cutting blade. Mori provides no disclosure or suggestion to provide a stop for an adjustable knife that is *stationary* during cutting.

In response to these arguments, the Office Action asserts that the knife of Kirsten is also a moving knife because it is adjustable. However, Applicants again respectfully submit that the knife of Kirsten does not move during cutting as in Mori. Accordingly, Mori does not provide support for a stop for an adjustable, stationary knife.

Further, the Office Action asserts that it would have been obvious to provide the second stop in Kirsten as taught by Mori in order to prevent the post from sliding off the base. However, there is no indication in Kirsten that the post would slide off the base. Moreover, Kirsten includes bolts 23 with heads that provide a stop for locking the post in position. Therefore, there are no teachings in Kirsten that would motivate one skilled in the art to modify the assembly of Kirsten to include a second stop.

Also, during the interview, it was suggested by the Examiners that the head of the bolt 23 could be construed as a second stop. However, this would not be proper. Evidently, the Office Action is already construing the head of bolt 23 as a device that locks an adjustable post from moving during cutting and the bolt 23 cannot be employed to satisfy two limitations in a claim. Additionally, if it was assumed *arguendo* that a cylinder could properly replace the screws and bolts of Kirsten, then the bolt 23 would no longer exist.

Accordingly, withdrawal of the rejection is respectfully requested.

Claim 14

In paragraph 5 of the Office Action, claim 14 is rejected under 35 U.S.C. §103(a) over the combination of Kirsten and Wallis, and further in view of Graham. This rejection is respectfully traversed.

LYONS ET AL. -- 10/007,692
Client/Matter: 020826-0280456

The Office Action relies on Graham to disclose a gib. This does not make up for the deficiencies noted above with respect to Kirsten and Wallis. Accordingly, withdrawal of the rejection is respectfully requested.

Other Prior Art Rejections

In paragraph 6 of the Office Action, claim 22 is rejected under 35 U.S.C. §103(a) over Kirsten and Wallis in view of Mori. This rejection is respectfully traversed.

The above arguments directed to claim 1, 18, and 13 are equally applicable to claim 22. Accordingly, withdrawal of the rejection is respectfully requested.

In paragraph 7 of the Office Action, claims 1-4, 8-12, 18-21, and 23 are rejected under 35 U.S.C. §103(a) over Kirsten in view of Wallis and Chazen. This rejection is respectfully traversed.

The Office Action relies on Chazen to disclose an alligator shear that teaches an impact position and an elevated position. This does not make up for the deficiencies noted above with respect to Kirsten and Wallis. Accordingly, withdrawal of the rejection is respectfully requested.

In paragraph 8 of the Office Action, claims 13 and 24 are rejected under 35 U.S.C. §103(a) over the combination of Kirsten and Chazen, and further in view of Mori. This rejection is respectfully traversed.

The Office Action relies on Chazen to disclose an alligator shear that teaches an impact position and an elevated position. This does not make up for the deficiencies noted above with respect to Kirsten and Mori. Accordingly, withdrawal of the rejection is respectfully requested.

In paragraph 9 of the Office Action, claim 14 is rejected under 35 U.S.C. §103(a) over the combination of Kirsten, Wallis, and Chazen, and further in view of Graham. This rejection is respectfully traversed.

The Office Action relies on Chazen to disclose an alligator shear that teaches an impact position and an elevated position. This does not make up for the deficiencies noted above with respect to Kirsten and Graham. Accordingly, withdrawal of the rejection is respectfully requested.

LYONS ET AL. - 10/007,692
Client/Matter: 020826-0280456

In paragraph 10 of the Office Action, claim 22 is rejected under 35 U.S.C. §103(a) over the combination of Kirsten, Wallis, and Chazen, and further in view of Mori. This rejection is respectfully traversed.

The Office Action relies on Chazen to disclose an alligator shear that teaches an impact position and an elevated position. This does not make up for the deficiencies noted above with respect to Kirsten, Wallis, and Mori. Accordingly, withdrawal of the rejection is respectfully requested.

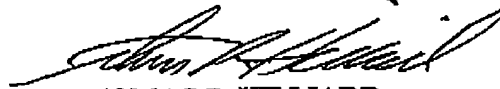
All rejections have been addressed. It is respectfully submitted that the present application is now in condition for allowance, and a notice to that effect is earnestly solicited.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Should there be any questions or concerns regarding this Application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,

PILLSBURY WINTHROP LLP



THOMAS P. HILLIARD

Reg. No. 40330

Tel. No. (703) 905-2091

Fax No. (703) 905-2500

May 24, 2004
P.O. Box 10500
McLean, VA 22102
(703) 905-2000

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Name Thomas P. Hilliard

Sig. 

Date May 24, 2004

020826/0280456

C# / M#